THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.58 of 2007

Dated: 19.01.2007

Between:

Kaladari Raju.

..... PETITIONER

AND

The Revenue Divisional Officer, Kakinada, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.58 of 2007

ORDER:

The petitioner is minor and is resident of Navakhandrava Village, Pithapuram Mandal, East Godavari District. This writ petition is filed seeking a writ of Mandamus declaring the letter/report dated 27.05.2006 of second respondent, namely, the Mandal Revenue Officer (MRO), Pithapuram, sent to the District Collector (not party to this writ petition) as illegal, arbitrary and without jurisdiction.

The case of the petitioner, in brief, is that the land (house site) admeasuring Ac.0.03 cents bearing plot No.32 in survey No.204/1.2.4 situated at Kondevaram Village now in Kothapalli, East Godavari District, was assigned to the father of the petitioner in 1977. After death of the father of the petitioner, on behalf of the petitioner and other minor children, the paternal uncle of the petitioner (guardian) is allegedly in possession of the land and taking care of them. When respondents 5 to 8 allegedly made attempts to interfere with the possession of the subject land, a suit being O.S.No.174 of 2006 was filed on the file of the Court of the Junior Civil Judge, Pithapuram and in I.A.No.678 of 2006 *ad interim* injunction was obtained. Later the interim injunction was vacated, aggrieved by which the petitioner preferred C.M.A.No.22 of 2006, which is pending on the file of the Court of the Senior Civil Judge, Pithapuram. It is alleged that during Prajapadam programme, eighth respondent gave a representation to the District Collector (Grievance Cell). A report was called for from second respondent. In the impugned report/letter dated 27.05.2006, second respondent informed the District Collector that the allottees did not raise any construction even after lapse of thirty years and therefore, the land has been resumed. In challenge to the letter of second respondent, it is mainly contended that when the land is situated within the jurisdiction of Kothapalli, it was improper for second respondent to have interfered in the matter informing the District Collector that the land has been resumed.

This Court on 04.01.2007, while ordering *status quo*, directed the learned Assistant Government Pleader for Revenue (Assignment) to get instructions in the matter and file counter. Today, though counter-affidavit is not filed, the learned Assistant Government Pleader, on instructions, submits that as on today no order has been passed either by MRO, Kothapalli or MRO, Pithapuram, resuming the land and that this writ petition is filed challenging the impugned letter which is purely internal correspondence between the office of MRO and the office of the District Collector. The learned counsel for the respondents 5 and 8 submits that plot No.33 is assigned to seventh respondent and

respondents 5, 6 and 8 are not necessary parties to this writ petition. He also denies that the land is resumed from seventh respondent.

A perusal of the impugned letter of MRO would show that after receiving complaint from Peethala Rajya Lakshmi, an enquiry was conducted. It was found that there was no division of land into plot Nos.32 and 33 and no lay out was available. Therefore, MRO tried to bring comprise between the petitioner and the said Rajya Lakshmi by dividing the existing plot into two equal halves and conduct lottery. As both the parties refused, MRO informed the Collector that the land has been resumed to the Government. When admittedly plot Nos.32 and 33 are assigned to the petitioner and the said Rajya Lakshmi respectively, without any notice to them, MRO could not have resumed the land as informed to the District Collector. Any such hypothetical resumption of the land would certainly violate the principles of natural justice. Therefore, such resumption is bad in law. Now that the District Collector has been apprised by the impugned letter/report dated 27.05.2006 sent by second respondent, the District Collector may look into this report and issue necessary advise to MRO in whose jurisdiction plot No.32 is situated i.e., MRO, Kothapalli or MRO with appropriate jurisdiction to take necessary action in the matter. Till then there shall be *status quo.*

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

19th January, 2007
ghn